UNITED
NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/50/910
S/1996/231
1 April 1996

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fiftieth session
Agenda item 19
ADMISSION OF NEW MEMBERS
TO THE UNITED NATIONS

SECURITY COUNCIL
Fifty-first year

Letter dated 1 April 1996 from the representatives of Bosnia and Herzegovina, Croatia, Slovenia and the former Yugoslav Republic of Macedonia to the United Nations addressed to the Secretary-General

We have the honour, upon instructions from our Governments, to present to Your Excellency, in your capacity as depositary of multilateral treaties, the position of our Governments in regard to the United Nations document entitled "Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties" (ST/LEG/8), as prepared by the Treaty Section of the Office of Legal Affairs. More precisely, we refer to the section entitled "In the absence of provisions relating to succession", and in particular to paragraph 297 of the said document.

The Republic of Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia and the Republic of Slovenia express their strong objection to the interpretation by the Treaty Section that "the Federal Republic of Yugoslavia (Serbia and Montenegro) ... remains ... the predecessor State upon separation of parts of the territory of the former Yugoslavia". This interpretation is contrary to the relevant Security Council and General Assembly resolutions and contrary to the conclusions of the Arbitration Commission of the United Nations/European Union International Conference on the Former Yugoslavia.

In its resolution 777 (1992) of 19 September 1992, the Security Council stated that "the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist" and that "the Federal Republic of Yugoslavia

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(Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations". The General Assembly, in its resolution 47/1 of 22 September 1992, supported the decisions of the Security Council.

Likewise, the Arbitration Commission stated that the former Socialist Federal Republic of Yugoslavia had dissolved and ceased to exist as an international legal person, and that none of the successor States, including the Federal Republic of Yugoslavia (Serbia and Montenegro), could claim to be the sole successor State of the former Socialist Federal Republic of Yugoslavia. The fundamental principles of equality of rights and duties in respect of international law which deal with succession of States with respect to treaties, State property, archives and debts were to be applied to all successor States (opinions No. 8, 9 and 10, see A/48/874-S/1994/189, annex).

Additionally, in practice, the representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) have been prevented from participating in international meetings and conferences of States parties to multilateral treaties, in respect of which the Secretary-General acts as depositary, as the Federal Republic of Yugoslavia (Serbia and Montenegro) had not acted in accordance with international rules on the succession of States.

Another problematic aspect of the text contained in paragraphs 297 and 298 in document ST/LEG/8 is the use of analogies. Each case of State succession has its own specific characteristics. In the absence of an agreement among the successor States of the former Socialist Federal Republic of Yugoslavia, it is necessary to resort to relevant provisions contained in resolutions of the principal organs of the United Nations and in the conclusions of the Arbitration Commission.

Therefore, we should kindly request Your Excellency to take immediate measures concerning the document entitled "Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties", making it consistent with the relevant Security Council and General Assembly resolutions.

Our Governments shall insist on their common position regarding State succession and shall oppose any attempt to circumvent the relevant resolutions of the Security Council and the General Assembly and the conclusions of the Arbitration Commission.

We should also like to request your kind assistance in circulating the present letter as a document of the General Assembly, under the agenda item

entitled "Admission of new Members to the United Nations", and of the Security Council.

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